

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

BRUCE D. WILLIAMS

§

VS.

§

CIVIL ACTION NO. 9:12cv156

DIRECTOR, TDCJ-CID

§

ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Bruce D. Williams, an inmate confined in the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges two prison disciplinary proceedings.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends the petition be denied with prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Petitioner filed two sets of objections (doc. nos. 25 and 37) to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections.

Petitioner is not eligible for release on mandatory supervision. As a result, the Magistrate Judge concluded that even though petitioner lost previously earned good conduct time credits as a result of the disciplinary proceedings, he did not have a protected liberty interest at stake in the proceedings. In his objections, petitioner states he has a protected liberty interest in the disciplinary proceedings because he is eligible for release on parole. However, petitioner is mistaken. A Texas state inmate has no liberty interest in being released on parole. *Madison v. Parker*, 104 F.3d 765, 768 (5th Cir. 1997); *Creel v. Keene*, 928 F.2d 707, 708-09 (5th Cir. 1991).

As petitioner is not eligible for release on mandatory supervision, he was not entitled to due process of law before receiving the punishment imposed as a result of his disciplinary convictions. Petitioner's objections are therefore without merit.<sup>1</sup>

### ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** as the opinion of the court. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

In addition, the court is of the opinion petitioner is not entitled to a certificate of appealability. An appeal from a judgment denying federal habeas relief may not proceed unless a judge issues a certificate of appealability. *See* U.S.C. § 2253. The standard for a certificate of appealability requires the petitioner to make a substantial showing of the denial of a federal constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004). To make a substantial showing, the petitioner need not demonstrate that he would prevail on the merits. Rather, he must demonstrate that the issues are subject to debate among jurists of reason, that a court could resolve the issues in a different manner, or that the questions presented are worthy of encouragement to proceed further. *See Slack*, 529 U.S. at 483-84. If the petition was dismissed on procedural grounds, the petitioner must show that jurists of reason would find it debatable: (1) whether the petition raises a valid claim of the denial of a constitutional right, and (2) whether the district court was correct in its procedural ruling. *Slack*, 529 U.S. at 484; *Elizalde*, 362 F.3d at 328. Any doubt regarding whether to grant a certificate of appealability should be resolved in favor of the petitioner, and the severity of the penalty may be considered in making this determination. *See Miller v. Johnson*, 200 F.3d 274, 280-81 (5th Cir. 2000).

In this case, the petitioner has not shown that any of the issues raised by his claims are

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<sup>1</sup> In his first set of objections, petitioner complains that the court did not rule on his motions seeking a default judgment. However, an order was subsequently entered denying the motions.

subject to debate among jurists of reason. The factual and legal questions raised by petitioner have been consistently resolved adversely to his position and the questions presented are not worthy of encouragement to proceed further. As a result, a certificate of appealability shall not issue in this matter.

So **ORDERED** and **SIGNED** this **23** day of **May, 2014**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

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Ron Clark, United States District Judge